



COMDTINST 16214.2

AUG 20 1993

COMMANDANT INSTRUCTION 16214.2

Subj: NATIONAL MARINE SANCTUARY LAW ENFORCEMENT PROGRAM

Ref: (a) Coast Guard Participation in the National Marine Sanctuary Program, COMDTINST 16004.3

(b) Maritime Law Enforcement Manual, COMDTINST M16247.1

(c) Abstract of Operations Reports, COMDTINST M3123.7L

(d) ELT Summary Enforcement Event Report (SEER), COMDTINST 16249.1A

1. PURPOSE. This instruction provides policy guidance for Coast Guard enforcement of laws and regulations in the national marine sanctuaries. The intended users of this instruction are operational law enforcement program managers at the headquarters, area, and district levels, and units with an operational law enforcement mission.
2. ACTION. Area and district commanders, commanders of maintenance and logistics commands, and commanding officers of headquarters units shall ensure compliance with the provisions of this instruction.
3. BACKGROUND. The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431, *et seq.*) (the Act), authorizes the Secretary of Commerce to designate discrete areas of the marine environment as national marine sanctuaries to promote comprehensive management of their unique ecological, historical, recreational, and aesthetic resources. A broad overview of the National Marine Sanctuary Program, its goals, and general guidance for Coast Guard participation in the program are contained in reference (a).

4. DISCUSSION.

a. Enforcement Authority.

- (1) The Act charges the Secretary of Commerce with enforcing its provisions. The National Oceanic and Atmospheric Administration (NOAA) administers the National Marine Sanctuary Program and carries out the Secretary's enforcement responsibilities through its local sanctuary managers and the National Marine Fisheries Service (NMFS), and through cooperative partnerships with Federal, state and local agencies.
- (2) Where marine sanctuaries lie in state waters, NOAA primarily coordinates enforcement with state enforcement agencies. In waters beyond state jurisdiction, the Coast Guard is the primary maritime enforcement agency.
- (3) The Coast Guard has authority to enforce the Act under 14 U.S.C. 2 and 14 U.S.C. 89. Section 1437(h) of the Act specifically states that nothing shall be considered to limit the Coast Guard's authority to enforce the Act or any other Federal law; i.e., the Coast Guard may enforce all applicable Federal laws within the boundaries of national marinesanctuaries.
- (4) Violations of marine sanctuary regulations are prosecuted and adjudicated by the NOAA General Counsel.

b. Enforcement Philosophy. NOAA's sanctuary management philosophy is based primarily upon an educational approach. NOAA's objective is to foster voluntary compliance by those who use the Nation's marine sanctuaries and to promote a feeling of stewardship toward the various living and cultural resources these sanctuaries were created to protect. The Coast Guard supports this philosophy. Nevertheless, the sanctuaries require the routine presence of law enforcement resources to deter and detect violations.

c. Sanctuary Management Plans. Each marine sanctuary is unique and is managed and regulated by NOAA with regard to its location and the specific nature of, and threats to, its resources. Individual sanctuary management plans establish the framework for achieving long-term resource protection by tailoring management programs to the needs of the particular site.

d. Congressional Interest. There is increasing congressional interest in the enforcement of Marine sanctuary regulations, in appropriate levels of Coast

Guard participation, and in enforcement coordination procedures between the Coast Guard and NOAA. This interest has been consistent with increased public concern for the proper conservation and management of the marine environment as a whole.

5. POLICY. As the Nation's leading maritime law enforcement agency, the Coast Guard will actively contribute to the enforcement of marine sanctuary regulations. The Coast Guard will work closely with NOAA to ensure its enforcement efforts complement those of other Federal, state, and local agencies. The specific level of Coast Guard surveillance and enforcement activity shall be consistent with that determined to be necessary by NOAA, within resource constraints.

6. RESPONSIBILITIES.

- a. District commanders shall:

- (1) Establish close liaison with the regional NMFS special agent in charge, and the local Sanctuary managers to ensure continuous and timely analysis of enforcement needs.
 - (2) Provide routine surveillance of the marine sanctuaries concurrently with other Coast Guard operations, and provide specific, targeted, or dedicated law enforcement as appropriate. Sanctuary surveillance and enforcement should be incorporated into routine patrol orders where feasible.
 - (3) Coordinate Coast Guard sanctuary enforcement activities with the regional NMFS special agent in charge and the local sanctuary managers through procedures set out in memoranda of agreement. Copies of such agreements shall be provided to the Commandant(G-OLE) and the cognizant area commander.
 - (4) Keep NMFS and the local sanctuary managers informed of Coast Guard non-sanctuary related operations occurring within sanctuary boundaries.
 - (5) Participate with NOAA and other Federal, state, and local agencies in the development stage of sanctuary management plans and regulations so as to advise them on the enforceability of regulatory proposals.
 - (6) Assist NMFS and the local sanctuary managers in assessing the level and nature of user activity in the sanctuaries through coordinated surveillance patrols.
 - (7) Review violations of sanctuary regulations as documented by Coast Guard units on Enforcement

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Action Reports and Offense Investigation Reports. Forward completed enforcement case documentation to NMFS for processing and final adjudication by NOAA General Counsel as per procedures set out in the memoranda of agreement required by paragraph 6.a.(3) above.

(8) The guidance contained in chapter four of reference

- (b) (as amended by ALDIST 360/92) regarding the authority to take law enforcement action against foreign flag vessels located in or seaward of the territorial sea of the U.S., remains in effect within national marine sanctuaries. b. Unit commanding officers and officers in charge shall conduct patrols as directed by their operational commander and shall submit required reports.

7. REPORTING REQUIREMENTS.

- a. Marine sanctuary enforcement effort shall be documented in aircraft, boat, and cutter abstract of operation reports per reference (c), and in Summary of Enforcement Events Reports (SEER) per reference (d).
- b. Violations of marine sanctuary regulations shall be reported on the Enforcement Action Report (CG-5201) and the Offense Investigation Report (CG-5202) per reference (b).

/s/ R. A. Appelbaum
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